City of Lafayette
City Council Special Meeting
Redevelopment Agency Special Meeting
MINUTES

Lafayette Community Center – Sequoia Room
500 St. Mary's Road, Lafayette, California

March 9, 2009
6:00 p.m.

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 6:00 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Ann Merideth, Community Development Director; Tony Coe, Engineering Services Manager; Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Anderson) to adopt the agenda. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

4. PUBLIC COMMENTS - None

5. CLOSED SESSION

A. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to Litigation pursuant to Government Code section 54956.9(b) (1 Case)

6. ADJOURNMENT

ACTION: It was M/S/C (Anduri/Federighi) to adjourn to the Special City Council Meeting at 6:30 p.m. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
City Council Special Meeting
Redevelopment Agency Special Meeting
MINUTES

Lafayette Community Center – Sequoia Room — March 9, 2009
500 St. Mary's Road, Lafayette, California — 6:30 p.m.

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 6:30 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Absent: None

Commissioners: Fred Lothrop, Chairperson, Emergency Preparedness Commission; Commissioners John Stuart, Elizabeth Heckle

Staff: Steven Falk, City Manager; Mala Subramanian, City Attorney; Cathy Surges-Moscato, Community Services Officer; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Anderson) to adopt the agenda. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

4. PUBLIC COMMENTS - None

5. PRESENTATIONS

A. Emergency Preparedness Commission
Report on Goals and Accomplishments 2009
Recommendation: Receive and file.

Chairperson Fred Lothrop introduced fellow Commissioners and gave an introduction of the Commission's accomplishments:

- Draft of a Statement of Understanding by John Stewart between businesses and the City;
- Working with information from the County on pandemic problems;
- Lamorinda CERT Program;
- General Disaster Preparedness;
- Understanding wild land fire hazards;
- Communications activities center around amateur radio communication and County
- RACES program:
    - -Links from amateur stations to fire and police dispatch centers are being
    - developed.

    - -Contributed to radio communications plans and equipment for the
    - CERT program;
- CERT (Community Emergency Response Team) support has been ongoing through
- limited purchase of needed supplies. CERT recruiting efforts are centered through the
- LamorindaCert.org web page;
- City-purchased FRS radios are being used regularly in CERT training classes to develop skills in radio communications within affected neighborhoods and to the outside world;
- The Commission completed its review of a proposed automatic gas valve shutoff
- ordinance that would replace the county ordinance under which the city has been operating;
- LEARN classes - ongoing Commission outreach to the community, with three presentations in 2008;
- Commission presence at the Art and Wine Festival, the annual reservoir run and other Lafayette
- Public events including the Earth Day celebration;
- Presentations to neighborhood groups, Lafayette Senior Services gatherings, talk on earthquake preparedness at the Lafayette Library;
- Teamed with the Lafayette Crime Prevention Commission in a joint meeting;

<u>Speakers at Commission monthly meetings in 2008:</u>

- • Karen Siemsen, on emergent volunteer centers
- • Breanna Taylor and Ruth Rosenberg, for the Red Cross
- • Jonathan Goodwin, for the Canyon Fire Council,
- • Gene Gottfried showing pictures of the October 25 Lamorinda CERT exercise,
- • Emily Hopkins for the Contra Costa Consolidated Fire District,
- • Mei-Sun Li, for Lafayette Senior Services,
- • Lafayette Police Chief Michael Hubbard.

<u>Additional Accomplishments:</u>

- Continue work with the Lafayette Chamber of Commerce to foster business recovery in the event of a disaster;
- LEARN, Lafayette Emergency Action Response Network;
- Periodic review of the city's emergency plan;
- Identify areas and structures that may have the potential for damage in an emergency;
- Aid in the establishment of communication networks; Satellite Telephone, Public Works Radio System, Amateur Radio, FRS Radio Neighborhood Plan;
- Assist in Planning an annual disaster drill;
- Assist in publication of materials related to disaster preparedness plan;
- Compile an active list of volunteers who can be called upon to work in an emergency;
- Identify persons who may be in greater need of aid during an emergency;
- Confer with other agencies, jurisdictions, relief organizations, and other organizations involved in the emergency and disaster response and recovery process.

<u>Immediate Goals Of The Emergency Preparedness Commission:</u>

- Continue to support emergency preparedness for local businesses;
- Put on, with the Lafayette Crime Prevention Commission, a summer Safety Fair;
- Community Wildfire Prevention &Preparedness; improve visibility of program;
- Assist the City in planning the new library EOC area;
- Meet with local schools as part of ongoing cooperation;

- Coordinate CERT activities for local civic events;
- Develop a program for apartments, to guide landlords and tenants toward self-sufficiency in the event of a disaster, including emergency supply storage and building safety.

Immediate Recommendations For The City Of Lafayette:

- CERT Training For All Council Members
- Council Members Attend City Drill
- New EOC
- City Employees Emergency Job Assignment Goals
- Separate Bank Account Pre-Established To Be Used Only In Times Of Emergency
- MOUs, Memorandums Of Understanding
- Animal, Pet Preparedness
- LEPC Represented In Vistas
- City Offices Preparedness

For Future Consideration By The City:

- Consider having an alternate out of state server for City Website.
- If the city wishes to create and maintain a volunteer registry and a "vulnerable populations" registry it may be necessary to create a part time paid position.
- Become involved with CERT classes and show support by attending graduation/drills.

Councilmember Anderson suggested Chair Lothrop contact homeowner associations and request they agendize Commission presentations in order to educate their members.

Vice Mayor Andersson questioned the anticipated focus for the CERT position, and Mr. Lothrop believed the position could serve as a coordinator for the area, organizing neighborhoods to expand the program. He confirmed there were approximately 400 Lamorinda CERT trained volunteers.

Councilmember Federighi questioned whether there is City employee training in emergency services and if this was incorporated into their job assignments and performance reviews. City Clerk Robbins reported that as employees are given their Oaths of Office, they are instructed they can be called upon to serve as a disaster worker. She discussed employee participation in CSTI training conducted in San Luis Obispo, as well as disaster drills.

Councilmember Federighi confirmed with the City Manager that a separate fund is established in the budget where all emergency services expenses are charged against for reimbursement purposes.

Mayor Tatzin requested staff alert the Council of local training opportunities, and on behalf of the City Council, thanked Mr. Lothrop for his presentation.

6. ADJOURNMENT

ACTION: It was M/S/C (Anduri/Federighi) to adjourn to the Special City Council Meeting at 6:51 p.m. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

APPROVED:

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Don Tatzin, Mayor

ATTEST:

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Joanne Robbins, City Clerk

City of Lafayette
City Council Regular Meeting
Redevelopment Agency Special Meeting

MINUTES

Lafayette Community Center – Manzanita Room — March 9, 2009
500 St. Mary's Road, Lafayette, California — 7:00 p.m.

1. CALL TO ORDER

Mayor Tatzin called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Council Members: Mayor Tatzin, Vice Mayor Andersson, and Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Jennifer Russell, Parks, Trails & Recreation; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – Led by Mayor Tatzin.

4. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Andersson) to adopt the agenda. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

5. REPORT ON CLOSED SESSION

Mayor Tatzin reported the City Council met in Closed Session and took no action.

6. PUBLIC COMMENTS

Jim Burns said the Roads Task Force met recently. He believed staff should not dictate the policy on which roads should be rebuilt and urged the Council to apply the money available to be used to fix failed roads.

7. PRESENTATIONS

A. Ruth Rosenberg, Vice Chair, Contra Costa County Leadership Council, American Red Cross Bay Area Chapter
Proclamation Recognizing March as American Red Cross Month
Recommendation: Approve proclamation and present.

Ruth Rosenberg reported that they have added Statements of Understanding with the high school, middle school and elementary school, have worked with the schools on safety and with

the City in providing shelter management training, drills, CERT training, and emergency planning activities.

ACTION: It was M/S/C (Anderson/Federighi) to approve a proclamation recognizing March as American Red Cross Month. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. Erling Horn, Central Contra Costa Transit Authority Board of Directors Member Update on County Connection Revised and New Routes and Fares
Recommendation: Receive and file.

Erling Horn provided an update on the County Connection revised and new routes and fares, stating that the County Connection includes 10 cities and the county. On March 22, 2009, the Board of Directors will increase fares and decrease service due to their continued budget crisis. He said route numbering has been changed to single digits. Cash fares will increase from $1.75 to $2.00 and free senior rides have been changed to $1.00. He reviewed the routes serving Lamorinda, discussed a shuttle loop in the Downtown Strategic Plan that would run from Lafayette BART station, down Mt. Diablo Boulevard to Golden Gate, and loop back to the BART station, which is estimated to cost for $150,000 a year for 10 hours a day, 6 days a week. It would take about 12 minutes to do the loop. If the Park Hotel was included, it would take about 15 minutes. He noted there is also an option to have a trolley approach to the shuttle bus for approximately $80,000.

Councilmember Anderson thanked Mr. Horn for investigating the free shuttle because it has been discussed in the Downtown Strategic Plan to address congestion.

Mr. Horn further reported that the stimulus package the Governor signed will provide about $2 million a year for the next two years for County Connection, which can be applied to preventative maintenance and for service without having to further cut services in July.

Mayor Tatzin said that given increases in gas prices he questioned how fare box revenue does as a percentage of total cost compared to what it has been historically. Mr. Horn said it increased 1.5% from 17% to almost 18.5-19%, but then has declined back down to 17%.

Councilmember Anduri referred to Route 25; he confirmed it did not go through the downtown, but does go through Lafayette east of the BART station.

Vice Mayor Andersson confirmed that the Walnut Creek shuttle is free, it is subsidized by the City of Walnut Creek at about $23.00 per hour or about $4.93. Mr. Horn noted Walnut Creek subsidizes the entire route, as well as St. Mary's College shuttle, which is funded by the college. If Lafayette decides to go with a shuttle, it would need to be subsidized by a third party. He also noted the school bell routes are covered.

Councilmembers thanked Mr. Horn for his update.

8. OLD BUSINESS - None

9. STAFF REPORTS – None

10. PUBLIC HEARINGS

A. Lindy Coburn, Associate Planner
Inclusionary Housing Ordinance follow-up on two key components, affordable restrictions and in-lieu fees
Recommendation: Provide direction on the two key components and direct staff to draft an Inclusionary Housing Ordinance.

Associate Planner Lindy Coburn said the item was last discussed by the Council at its October 2008 joint meeting with the Planning Commission. Each of the key components were reviewed and the Council provided direction on most of those components. Staff updated the key components table with the Council's comments on the items; however, the Council asked staff and the City's housing consultant to provide additional information on two components: affordability restrictions and in-lieu fees.

AFFORDABILITY RESTRICTIONS
What level of affordability should the below-market-rate (BMR) units be held to?
At the October 2008 joint meeting, questions were raised about the feasibility of requiring that the affordability levels of future inclusionary units outside the downtown be tracked to the income distribution of the units required in the Regional Housing Needs Allocation (RHNA).

IN-LIEU FEES
How should the City establish in-lieu fees?
At the October 2008 joint meeting, Keyser Marston Associates (KMA) provided a table (Exhibit 3) that compared the in lieu equivalents for condominiums, single family detached, and rental apartment projects based on three mechanisms:

-Per affordable unit owed
-Per market rate unit (based on 10% requirement - multiply by 1.5 for RDA projects)
-Per square foot

Diana Elrod referred to page two of the staff report. Staff explained how RHNA is broken down by income category and how they calculated according to the Council's request for more information, and how units would be allocated in an inclusionary program based on the RHNA. She said the example is based on a 30-unit project. Of the 3 units required, 1.26 would be very low, .87 would be low and .9 would be moderate income. While this is doable in the same way the split target recommendation was doable, as an earlier recommendation, to say that the first affordable unit required would have to be very low, the second low, and the third would be moderate and then cycle through. She said there are similar arguments against doing it that way because of the difficulty in deciding which units are going to be which size and income category.

On page 3 of 5, there are 4 other points made in order for the Council to discuss. The first is a reminder that the RHNA allocation is not a prescription to build units; but that the City must provide the capacity should a developer want to build those units.

Secondly, the number of units that would be applied to this particular model would be very small. Most would be outside of the downtown and most of the projects' requirements would be fulfilled by in-lieu fees to begin with rather than actually producing a unit.

The third point made, as noted in the previous staff report is, the gap between very low income for-sale units and the market rate units, even in the current economic climate, is extremely large. Even requiring a few units at the lowest income levels may be onerous on a single family developer.

Lastly, the need for affordable housing is so large that getting any units is going to be remarkable in and of itself. No matter how many units are provided at whatever income levels, there will still be a sizable deficit. In terms of creating a vehicle for affordable housing, the best way is to collect a fee that is well-known that everybody can get behind and one which can be used to subsidize future development with non-profits.

She said staff's recommendation was to keep the original recommendation, which was for multi-family rental projects which would include low income only; multi-family for-sale or condos would be moderate income only, and the same for single-family for sale, which would be moderate income only.

In terms of the in-lieu fee, a question was raised about what it would look like if the in-lieu fee were based on a full recovery or the actual cost to construct a unit. She said KMA provided a summary on page 4 that shows a comparison between staff's original recommendation (partial recovery) versus the full cost recovery. In some cases, the amount is not that great of a difference between that and the per square foot, especially in looking at condos, and the prior recommendation versus the full cost recovery. However, given that, there are advantages set forth in the paragraph immediately under the table to using a partial recovery, or a step-down approach. It provides a comparable in-lieu fee to the programs set by other cities. It also may reduce the likelihood of a challenge on the figures because one could argue what the actual value of the product is, and if not tied directly to the price of a single family home or rental unit, there is less room for challenge.

Furthermore, having a full recovery method would probably mean more frequent updates of the fee amount. If it is less than what is thought the full amount is, there will be some allowance or buffer for market variations over the new few years or more. Based upon this, KMA recommended preparing an updated fee schedule prior to the adoption of the ordinance. They would come back with a bare bones structure of it and then discuss the actual fee at another time. She said fees can be set by Council resolution and then adjusted accordingly. Therefore, staff is recommending going back to the partial recovery option either as a square foot fee or market rate unit fee. Staff had originally recommended it as square footage.

Councilmember Anderson confirmed that the stepped fee will still require some monitoring. Given the market change, he questioned if all cities were re-analyzing their numbers in case they receive an application. Ms. Elrod said she was not sure and deferred the question to Kate Funk of KMA.

Kate Funk, KMA, said she has seen some cities modifying fees, but since most fee structures are not full cost, there is less urgency. And, there are not many new applications.

Councilmember Anderson thought that it would give the City a nice buffer to take the stepped approach; the City could be a little more hands off, and Ms. Funk agreed.

Vice Mayor Andersson referred to the recommendations on affordability types. He questioned and confirmed that the low income units are more difficult because the subsidy has to be greater, and they are assigned to the rental option because they tend to be less expensive units, and therefore, the differential is less. Ms. Elrod added that the very low income is an even greater differential, but those are the projects that are more likely to get awarded funds by the federal or state government.

Mayor Tatzin said if the Council was to adopt the ordinance, under what circumstances is the City likely to require a developer of a project to actually produce a unit as opposed to pay in-lieu fees. Ms. Elrod referred to page 4 of the KMA report from July 31, 2007; Summary of Recommendations. She said within the Redevelopment area, in-lieu fees would be required for between 3 and 6 units. The in-lieu fee outside would be between 3 and 9 units. Anything over 10 units outside of the Redevelopment area would be required to have a build requirement, unless it were a fractional unit and that unit could be an in-lieu fee.

Mayor Tatzin questioned what then would be the marginal cost of going from a 9-unit development to a 10-unit development, as he thought it seemed to be quite high. Ms. Funk said this is true; if the City sets its fees below anything that is an equivalent, if you have a choice, those calculations will help the city decide whether you will go to 9 or 10 units. One of the ways some cities deal with this is, below 10 units you do a step-down. So, 9 units is almost the same as 10, but 8 is a little less, and you move down as few units as you are going to charge.

Mayor Tatzin said he could argue that, in return, if he wanted to set a composite fee based on a RHNA allocation of the units and what that cost would be, this number only needs to be calculated once and it doesn't need to be based on low income or moderate because it is still a simple calculation and one that is easier than the one just explained.

Councilmember Anderson felt the discussion is the cost to build and the concern is that if the City links itself too tightly to that, then it is in a constant concern about fluctuations in cost and always adjusting that number. So, we go to a partial cost to provide that buffer. He said that Mayor Tatzin's point is then, if you get to the upper end, you get this gap that somehow must be absorbed. But, what Ms. Funk is stating is that there is a method where you get a graduated spread that has a low end and a higher end, so the jump is not so great. Ms. Funk said the Council could also ask itself how frequently in this community would the developer be faced with between 9 units and 10 units, and the answer is, probably not very often.

Mayor Tatzin said as long as you anticipate some developments are going to be over 10, then how you treat this is not important. On the flipside, if you discount everything, how do you ensure units get built? He felt you need to think through what is fair for each applicant and have a policy you could extend across applicants.

Mayor Tatzin referred to page 4 of 5 of the main report and the cost recovery option table. He questioned what goes in between the calculations for per square foot and for market rate unit with just one set of columns between the other. He provided an example of condominiums at a square foot cost of $15-$20, which is a difference of one-third, and the per market rate unit, which is a difference of $16,000 or a difference of 80%. Ms. Funk referred to revised Exhibit 3 after page 5 of 5. What gives the range is numbers for different affordability targets or levels. Once the Council has decided what the affordability levels are, then you get rid of the range and have one number, or you have a blended range. For the condominiums, there are units at low income which have a per market gap applied at a 10% program of $41,000 or the moderate level at $23,670, and you get a third figure when you blend them together 50/50 like your current program. If the Council decides condominium units will only be required to be moderate, you only have one figure there.

Mayor Tatzin said his point was more of one of ratios between two categories of numbers that look like they are trying to measure the same thing; unless there is a factor he does not understand. Ms. Elrod said staff could go back and look at this because she did not understand it, as well, and they will provide the Council with that information.

Mayor Tatzin opened the public hearing.

Don Lively, Lafayette Taxpayers Association, said his first reaction is to do nothing. He did not know how much enforcement power the State has behind the rules that dictate housing distribution. He questioned whether the City was looking for Section 8 housing in Lafayette and questioned the constraints that the City must plan for distribution of housing types in the community. He also questioned what would happen if the City does not observe those constraints.

Mayor Tatzin said some of it relates to the Housing Element overall, where the inclusionary housing ordinance would be a part of it. Ms. Srivatsa said State law requires that every city prepare and adopt a Housing Element, which is the only element that requires State review and certification. The goal of the element is to show the State that the City has regulations in place that do not thwart or impede development of affordable housing and to also demonstrate that the City has sufficient capacity in terms of vacant and under utilized land to accommodate the regional housing allocations that the State distributes on a 5-7 year basis. For the period of 2007-2014, Lafayette has been allocated 361 units, most of which are in the very low and moderate income category. One requirement the City must meet is to show the State that we have sufficient land to accommodate those units and that the City has regulations to foster development of affordable housing. If we did not adopt or have certified a housing element, funds could be withheld from the City. Additionally, housing groups and non-profits could sue the City on the lack of a certified housing element.

She said the element contains a number of programs which are things we tell the State we will do to foster the development of housing. One program in the current element is the inclusionary housing ordinance, which is not mandated by the State, but one that the City decided to prepare in 2002. It carries on in the new housing element and staff is at a point where it is bringing the final recommendations to the Council. The State will evaluate the progress made on all of our previous programs when we submit the new housing element.

Mayor Tatzin said if we have an approved housing element and we implement an appropriate set of programs, he questioned what the requirement is to build housing. Ms. Srivatsa said the City has no requirement to actually build housing nor does it have a requirement to reserve particular sites for housing. The State recognizes that housing is built by the development community by the private sector. All it wants a city or jurisdiction to do is to make sure there are no hurdles or barriers to the development of housing.

Mayor Tatzin confirmed that the City's current Housing Element was certified by the State. He questioned and confirmed that there was a housing allocation and programs put in place. He said because of this, he questioned if the Housing Element and requirements caused the City to approve any development that it would not have otherwise approved, and Ms. Srivatsa said no.

David Bruzzone said Lafayette is currently undergoing major hearings on the Downtown Specific Plan, revising and amending the Housing Element and considering adopting an inclusionary housing ordinance which will be applied to the entire town. All three initiatives are interdependent and have significant impacts on one another. If left unaltered and approved in their present form, they will have dire impacts on the character of the community and will lesson our ability to attain some of the laudable goals of these documents. Lafayette is around 9300 acres; 300 of which are downtown. About 78% of the town is residential or single family residential; 3% of which is in the downtown. The Specific Plan and Redevelopment Area are about the same area and the Redevelopment area has specific State mandates that only apply to that area. His concern with the inclusionary housing element is that it will take that state-mandated program on the

redevelopment area and will attempt to apply it town-wide to single-family residential units and also multi-family units outside the area. These initiatives will focus and concentrate affordable units into the downtown in excess of state requirements, and at the same time, will hamper the City's ability to provide moderate and above moderate single-family housing. Staff reports allude to some of the increased social service demands that accompany affordable housing units, and consequences to the school district by forcing development downtown have yet to be discussed. There is much discussion about the deleterious effects of inclusionary housing. Building industry groups provide first hand information and reports. Think tanks like Independent Institute, which issued a report; The Planning Penalty: How Smart Growth Makes Housing Unaffordable, provide ample information on why not to go down the inclusionary housing path. He said Supply and Affordability: Do Affordable Housing Mandates Work? By Benjamin Powell summarizes a research taken in the Bay Area. The summary includes findings that inclusionary zoning produces few units, has high costs, makes market price homes more expensive, restricts supply of new homes, restricts government revenue, and price controls do not address the cause of affordability problems. Looking at cost recovery options, the City is looking at $105,000 on a new single family house to pay for affordable housing. An alternative to inclusionary housing is the lessening of governmental restraints or the elimination of exclusionary zoning. Exclusionary zoning are burdensome mandates that create a larger minimum lot size, excessive regulations or standards, or a drawn out process that guarantees expensive construction. There are better ways of providing affordable housing. One way is in-law units, which are allowed but not encouraged. In-law units are an attractive way of achieving affordable housing units that families support. The Lafayette Specific Plan and Housing Element seem to anticipate that the need for affordable housing is large—far larger than the RHNA requirement and larger than we must provide per state law. Therefore, they are encouraging ways of getting extra revenues by applying the inclusionary housing cost to single-family houses. HCD has expressly declared that inclusionary zoning is not required to attain a Housing Element certification, and in fact, inclusionary housing may act as a governmental constraint that precludes certification of housing needs. Jerry Brown in 2006 said, "It means fewer houses, higher prices, and less development because of the tax." Mr. Bruzzone said he is therefore against inclusionary housing.

Mayor Tatzin said the City does, by State law, allow for second units by right, and they cannot be denied. He confirmed second units were also in the Housing Element.

Mr. Bruzzone said if he builds an in-law unit, he questioned why it should not take the place of such an outrageous fee, and Mayor Tatzin said this is not at all clear.

Vice Mayor Andersson said, for example, if someone was proposing a 5-lot subdivision and there was an in-lieu fee that was due, if on one of the units they added a second unit that qualified as a low income unit, would it take the place of the fee? Ms. Elrod said this has not been specifically addressed, but it is something to consider. The way they talked about it was that a unit of that size in a small development would probably provide in-lieu fees rather than adding in another unit.

Mayor Tatzin said he would support the situation where a developer of such a project wanted to create a unit and would assure that it remains available to those in some category of affordability.

Guy Atwood said inclusionary housing ordinances are not required, felt the City does not need such an ordinance to meet all goals it needs to achieve and there are 20 million housing units in the country that are empty and cannot be filled up. The Lafayette Homeowners Council has discussed the fact that this was going to be limited to the downtown or commercial districts, but he is hearing tonight it may be extended to the entire community and hoped this was not the case.

Lastly, he said whatever the Council does he hoped that someone could be clear and specific on issues relating to putting together the ordinance.

The public hearing was closed.

Ms. Elrod said, in response to the question of when the discussions took place regarding making inclusionary program citywide, it was back in November of 2004.

Councilmember Anduri questioned if other cities were allowing second units to apply, as he thought this was discussed and there was no assurance that affordability would be maintained. Ms. Elrod said this is true for the purpose of the Housing Element. However, if there was some way to determine the affordability issue, they could consider this as another option. As far as other jurisdictions, most treat their second unit programs separate from the inclusionary program. Kate Funk agreed; there are a few that allow them as affordable units, and most communities keep them separate.

Councilmember Anderson said he thought the trigger for inclusionary fees outside of the downtown was two units or greater. Ms. Elrod said the original recommendation was three units or greater. So a two-unit development would not be required to provide inclusionary fees. Three to nine units would incur a fee and 10 units and above was an actual build requirement.

Councilmember Federighi noted that the recommendation is that an in-lieu fee be a partial fee and not a full recovery fee.

Mayor Tatzin said if the City goes to a partial fee, having an inclusionary ordinance that is 10% is misleading in a way because the partial fee is put at half of the full recovery fee, thereby making it a 5% inclusionary ordinance. If the Council proceeds, it should decide what its fee level be, and possibly set it at full recovery to get it to the same level. Because there is still so much uncertainty with the numbers, he suggested the item be continued and providing the consultants with some direction. There was a suggestion to drop the inclusionary ordinance altogether, as we already have elements of an inclusionary ordinance in the RDA anyway. He questioned whether the Council wants to affirm its prior decision to look at this citywide and/or whether it wants to set the basis for the two recommendations. If the Council decides to set a partial fee, then almost the first recommendation becomes mute.

Councilmember Federighi said to revisit the idea of expanding the inclusionary portion of the ordinance to citywide is not on the agenda and the decision had been made some time ago. She said this came to the Council for direction on the two items not yet decided which were whether or not to use the RHNA allocations for the basis for restrictions and how to do the in-lieu fees. She would strongly support staff's recommendations on them. It is cumbersome to use RHNA allocations, and all other arguments favor using the allocation that staff recommends.

In terms of the in-lieu fees being just a partial recovery, Councilmember Federighi thinks it is also supportable by the fact when you look who bears the burden of inclusionary zoning; part of the adjustment takes place over time. Even though the Council has stated since 2004 that this would apply citywide, she thinks to hit the developer, new homeowner or anyone with an actual full cost recovery is too drastic and too onerous. Therefore, she thinks the more modest plan is partial cost recovery, and this is the approach used by other cities.

Vice Mayor Andersson referred to partial versus full cost recovery, he thinks there are two issues: In looking at a 5 unit developer versus a 10 unit developer, the 5 unit cost would be less. The first

question is whether this would be fair for the developers and second, is there some disincentive to do a larger development as a result. In looking at what other cities have allowed, most allow either smaller units for inclusionary units or less interior finishes, or both. There may be some mitigation there that if you are actually providing the unit, it would cost less than the standard unit. Therefore, if the partial recovery is not half but in the vicinity of the full recovery might be appropriate.

Regarding the question of a single affordability category for a building type, Vice Mayor Andersson thinks the argument for that made sense; the very low income is covered under other programs for the most part and the distinction of the rental units being expensive and easier to provide a low income unit also makes sense and does not benefit or give a deference to any particular type. He would therefore support staff's recommendation on that.

Councilmember Anderson said he supported the affordability restrictions per staff recommendation. Regarding in-lieu fees, he felt there is definitely a relationship between the table and the recovery strategies outlined in more detail in the revised Exhibit 3 that follows the recommendations. He felt this might need to come back for the consultant to provide an explanation. He was concerned with having a graduated scale that is stepped, yet does not create an unfair burden for the development that is over 10 units, and there should not be a gap. If there was a way to have a graduated scale, it would be more appropriate and fair so as not to create a penalty going from 9 to 10 units.

Councilmember Anduri supported staff's recommendation for affordability levels. On the cost recovery options, it appears there may be a possibility that units 1-10 are based on a full equivalent unit to the other units being built. But then if someone builds an affordable unit, it will cost less, and that's where the difference comes in. Ms. Elrod agreed to return with more explanation on how this works.

Mayor Tatzin felt there was a clear preference to adopt the affordability level per unit type. He thought the fees still needed work, per his and Councilmember Anderson's comments, and he asked a proposal be structured that creates more housing. He thought that Mr. Bruzzone's comment on creating that housing through second units with affordability covenants is great and is better than putting money in a housing fund. He said there may be a lot of housing-related redevelopment money coming to the City, but the City has a poor record of being a housing developer. If the City could get developers doing second units, that would be great and an area he would be happy to use money to facilitate getting it done.

Councilmember Anduri said his only concern with this is that the City would have an even worse record of enforcing any sort of on-going affordability for those second units. Mayor Tatzin believed the City would need to develop a scheme to enforce it, as there is current enforcement. He thinks it is worth exploring and could be a lot easier than taking all one-acre zoning and making them half-acre lots.

Councilmember Federighi questioned if it was worthwhile to look at the threshold of 10 units to require an actual fee. Mayor Tatzin said he was concerned that having an escalating marginal cost for each additional unit to get to 10 is questionable. He would rather have a fee that is based on 75% recovery, and if you get to 12 or 15 units, then this is what would be needed to be done. If you produce something below that, then there may be funding the City could provide to help get it done. Ms. Elrod said another option would be giving the developer the option of either building it or providing a fee, rather than requiring under 10 a fee. For between 10-15 units there could be an option for the developer to choose the fee rather than build the unit.

Mayor Tatzin said the goal is to develop housing. This may be viewed as an easy out and he felt the city should make sure housing gets built.

Vice Mayor Andersson asked staff to address the question of whether an inclusionary unit could have some cost saving provisions as far as finishes and sizes, and Ms. Elrod agreed to provide more detail about what this might be and provide examples of nearby jurisdictions.

ACTION: Council provided direction on the Housing Ordinance affordable restrictions and directed staff to return with more information on the in-lieu fees.

Mayor Tatzin said he was asked whether or not anyone wished to remove Item 11K from the Consent Calendar. There was nobody wishing to remove it, and Mayor Tatzin noted representatives in the audience on the item could be excused.

B. Niroop Srivatsa, Planning & Building Services Manager
GP01-09: Amendments to the Housing Chapter of the Lafayette General Plan (Housing Element) to accommodate the regional housing needs allocation established by the State Department of Housing and Community Development
Recommendation: Authorize staff to send an administrative draft to the State Department of Housing and Community Development for the mandated 60-day review.

Ms. Srivatsa pointed out that the City's obligation for the current 7-year period is 361 units of which 113 must be very low income, 77 low income, 80 moderate income, and 91 above-moderate income units. In the last round, the City's obligations were to show capacity for 194 units, although there has been a significant increase. In January, two key components of the Housing Element; the Draft Goals and Policies and Programs, as well as the Housing Inventory were taken to the Planning Commission. They reviewed it and staff prepared the Draft Element and held a public hearing last month. They unanimously recommended approval. The recommendation before the Council is to send the Draft to HCD. By state law, staff is supposed to turn in the drafts in March so HCD can have a 60-day review. All communities must adopt their Housing Elements by June 30, 2009. She said Ms. Elrod will go over programs and policies in greater detail and then she would like to review the housing inventory and housing sites.

Diana Elrod referred to page 3 of the staff report; the layout of the summary of proposed goals, policies and programs in terms of what is different from the last Housing Element. A landscaped version compares the item as to whether there is a minor revision, no changes, removed, or it is new. The first 20 pages of the Housing Element includes detailed information on various aspects of the demographics of the community as well as the housing condition of the community. There is a lot of new information on pages 20 and 21 on homeless population in the County, and specifically including the City of Lafayette. She said five homeless people were found during a one night canvassing of the community and were given services. Though small, information must be provided on that population, as well as the special needs population; disabled persons, seniors, large households, etc.

She said that beginning on page 23 there is a lot of information about housing affordability, both ownership and rental affordability, tracking trends of housing over time, and some information about what has occurred with the economy over the last six months. She noted staff can always add more recent information to this. They are on target in showing what the general conditions are in the community.

Beginning on page 32, great detail is described about the process of looking at adequate sites within the jurisdiction. From this discussion (page 34), an analysis of constraints is discussed, including a detailed discussion of inclusionary housing. She said the State determined at one time that inclusionary housing may be a constraint to housing, but has since changed that determination and ask that jurisdictions provide information on inclusionary zoning and whether or not it is a constraint. The chapter then discusses development fees, information about infrastructure constraints, and beginning on page 44, there is a detailed discussion of constraints of housing for people with disabilities. Following this is information on non-governmental constraints which includes financing availability, cost of land, and things the jurisdiction does not have direct control. The section on energy conservation begins on page 50 and includes information on the City's environmental strategy. There is then a discussion on goals, policies and programs, and the table shows what has changed over time. The conclusion of the report is appendices with information about analyses of efforts to achieve goals, policies and programs of the last Housing Element. And finally, there is a list of inventory sites for housing.

Ms. Srivatsa provided summary of key changes to the current housing element:

1. Staff is suggesting that the land use permit requirement for housing in the downtown commercial district be removed and housing be allowed by right. However, any project will have to go through design review and environmental review. The State looks at land use permits as constraints to the provision of housing;
2. Development of a senior housing overlay zone. This is consistent with Council's direction to study an overlay district for senior housing;
3. A consideration of a requirement to have projects provide for families, or units with three or more bedrooms (new implementation program).

Ms. Elrod added to her previous statements that all jurisdictions in the Bay Area by County are adopting a Housing First Model and are getting out of the business of providing emergency shelters, which do not work to provide housing for those at risk or are homeless. The model states they will not fund any more homeless shelters but instead will look at supportive housing where people can go directly from homelessness to permanent housing. She noted there is a conflicting law; SB2, which states all jurisdictions, must have land zoned where emergency shelters can be allowed as a permitted use. This completely contradicts and the State is aware of it. She said the plan does provide for this, it was included in the last Housing Element; however, there is no intention to build homeless shelters in the City of Lafayette, but this complies with the state requirement.

Councilmember Anduri confirmed with Ms. Srivatsa that the City's program states that it needs to amend the C1 zone district to make a homeless shelter a permitted use, which she said is also in the Housing Element.

Ms. Srivatsa said she wanted to qualify the presentation of the inventory of vacant and underdeveloped sites by stating these sites are not reserved for housing alone, nor will the City mandate that only housing be built, nor will the City build housing on these sites. The City is demonstrating it has sufficient vacant and underdeveloped land, as done in the previous Housing Element. As an example, the Lafayette Mercantile site was a site for housing, where the developer had proposed something else.

The inventory of housing sites table has a column which shows whether the site was previously considered in the current element or not. The majority of sites were sites that the senior housing task force evaluated for the construction of affordable senior housing. Starting from west to east, there are three properties fronting Risa Road of .73 acres and staff is showing capacity of about

15 units. The inventory does not use a pure mathematical calculation; each site is analyzed for its constraints and potential use. Staff shows the light blue sites as those fronting Mt. Diablo Boulevard and Moraga Road and those are sites where staff anticipates housing on upper floors only and commercial and retail on the ground floor. The darker, blue/grey sites are sites are either already approved or that are away from Mt. Diablo and are considered to be all housing sites.

Starting with one, they show a capacity of 15 units, Number 2 is a Woodbury site which is already approved for 65 units. Number three which is south of Mt. Diablo Boulevard is the Joe's of Lafayette site and Joe's of Lafayette building and bar are around it. Number 4 is the site across from the City offices and, in fact, at the Design Review Commission's agenda the next evening, there is a study session for a mixed use project for two stories of housing over retail on the site. Site number 5 is the Diamond K site and the adjacent properties. Site Number 6 is Town Center Phase III. Site Number 7 is a small site; the former Sprusso's Restaurant, and this shows only 10 units being built, and they allocated the units as above moderate units because in addition for providing the estimate for each site, they also must allocate how many very low, low and moderate units staff thinks will be built. Number 8 is the Methodist Church parking lot and the four properties that front Moraga Road. This site was keenly studied by the senior housing task force. Number 9 is the property at the northeast corner of Moraga Road and St. Mary's Road; it is vacant and zoned MRO. Number 10 is the Park Theater and the properties from the Park Theater east to First Street. Number 11 are the properties south, along Golden Gate Way. These properties are already in the current inventory. Number 12 is the Taco Bell site that borders Mt. Diablo, First Street, and Golden Gate Way. Number 13 are properties fronting Golden Gate Way, and the Boswell site fronts Mt. Diablo Boulevard. Number 14 is the former Links Appliance site at Second Street and Mt. Diablo. Number 15 is a property to the east of Second Street, north of Mt. Diablo. It is the site where the Keenan Hines Outdoor Furniture was, and is currently owned by a senior housing developer; SRM. Number 16 are the properties that run along the west side of Blackwood Lane. Number 17 is the Butler Conte site. Number 18 is the Eden Housing site currently approved fro 46 units. Number 19 is the Stewart Street properties. Adjacent to residential there are a couple of lots at the end of the street. Number 20 is property at Eileen Street and Mt. Diablo Boulevard and commercial is on the ground floor with housing above. And, Number 21 is the Lafayette Park Terrace project approved for 18 condo units.

Staff used the existing General Plan density cap of 35 units to the acre and a height limit of 35 feet to calculate the potential units and staff shows (in its table) that there is sufficient capacity to accommodate their regional housing needs allocation.

Councilmember Anduri questioned the experience of other cities when requiring units with 3 bedrooms. Ms. Elrod said some cities have required 3 bedrooms in certain developments, such as larger cities that have financing. The program is to consider this, and they would return with a report and discuss exactly what cities have done and make a recommendation as whether it is a good recommendation or not. She said in some of the data provided, there are quite a number of larger family households in Lafayette.

Councilmember Federighi said she was struck by the fact that Lafayette has only added 45 persons between 2000 and 2007 at a .2% increase, yet our RHNA allocations show for 7 more years that the City is supposed to project a 5.7% increase. And a big part of that allocation basis is 45% based on the City's own population growth, which has been very modest.

Councilmember Federighi referred to page V-5, the figures used are median home prices in Contra Costa County, and the last price given was in 2004. She questioned if more recent figures could be inserted, and Ms. Elrod agreed this could be provided.

Councilmember Federighi said the cost for housing with the small percentages of residents 20-24, could be a factor, but another factor could be that they are in college.

Councilmember Federighi referred to V-42, Infrastructure Constraints; there is a statement about "thru traffic during peak hours is the predominant source of traffic congestion". She asked how one defines peak hours, stating a huge impact on traffic is the drop off and pick up from schools and not just the commute.

She referred to V-56, Program H-2.3.1; Housing Impacts of Employment Generated Uses; One of the activities was to consider the development of a commercial development linkage fee. She said the City has been trying to encourage businesses, and to her, this would discourage businesses. There is a housing impact fee program that the City has discontinued, and therefore, she felt it was inconsistent.

She referred to V-62; Policy H-5 1.3(b); "For development seeking a reduction in parking requirements, require developers to demonstrate reduced parking needs because of proximity to transit." Her preference would be to drop the words "because of proximity to transit", stating there may be other valid reasons for reducing parking needs, and also, the City already makes allowances for reductions in parking requirements if a development is close to transit anyway.

She referred to page 16 where the effectiveness of the different programs are evaluated; Policy H-3 3.1; "we require 20% of all ground floor units and apartments and condominiums to be handicapped." She asked if this was required by law. Ms. Elrod said this is an existing program from the last Housing Element, but it is not required by law. Councilmember Federighi questioned if there was data to support the need for a 20% handicapped requirement.

Mayor Tatzin noted that the City knows 10% of its population has a disability of one form or another. If most multi-family projects will be three-stories, the City is talking about making 6% of them accessible, and he felt there was a reasonable nexus.

Councilmember Anderson believed the requirement also included age and not just a problem with accessibility. To accommodate age, he felt it was appropriate.

Vice Mayor Andersson referred to Program H-1.6.1; page 3; Landscape Comparisons; It talks about the house size ordinance to prevent replacement of small, portable units with larger, more expensive units that are not in keeping with the character of the neighborhood. He said from what he knows of house size, he is not convinced that size restrictions will actually retain affordable housing in the sense of moderate to low income affordable. He was not sure if this gains the City anything in that area, and did not want to overstate it. Ms. Srivatsa said she felt "affordable" could be removed.

Vice Mayor Andersson said the City must show it has enough sites to accommodate the 361 units, but would the City also show it has enough sites that can accommodate each of the subcategories? Ms. Srivatsa said the table breaks down the sites by category, as well. Ms. Elrod reiterated this is not necessarily what must be there, but staff must demonstrate there are enough units there, and you could get a project there with those kinds of units.

Vice Mayor Andersson referred to the State's review and asked if staff had any particular concerns in the upcoming review. Ms. Elrod said the State's primary focus is on the inventory. The way they can only deny a City is to say that it is substantially not in compliance. This means that it does not have enough adequate sites or how they were demonstrated wasn't enough. She said the City had a 4-hour visit from HCD to go over the theory on how they would be calculated and they were very pleased with what the City had done. She feels confident that they may only ask questions relating to things they do not understand, or ask to beef up the section more about a certain population. The purpose of the review is for them to let staff know what the City still needs to do or modify in order to make a viable, adopted product. They are trying to help cities get certified and she believed the current plan was in good shape.

Councilmember Anderson said the Council was discussing inclusionary housing and the inventory does identify all affordability levels that could be accommodated on each of the sites. He felt this is something the City needs to do in the Housing Element, and he questioned and confirmed that it was expected to contain this detail. Ms. Elrod said the law requires jurisdictions that they can accommodate different kinds of housing at various income levels and specifically want cities to spell out density. Staff is trying to show that it has thought about this and thinks the targets can be hit in the downtown in terms of income category.

Councilmember Anderson said there really is a requirement that the City has an inclusionary ordinance or something that takes into account how the City will make these things happen. Ms. Elrod said it may not be in the form of an ordinance, but she agreed the City is required to show it can do this and an inclusionary ordinance is one kind of vehicle in achieving that.

Mayor Tatzin said he would provide his comments in writing on Section 1, which were editorial. On the programs, he felt they were good and had some editorial suggestions. Policy H-1.3 on House Sharing is still listed, but in the analysis later on, it states it will be discontinued. He was not sure it therefore needed to be listed. On H-1.4, Condominium Conversions, he clearly thinks that if the City is talking about an apartment complex that has affordability requirements now, those should be carried over to a condominium conversion at whatever level they are in place, or at that same level.

On page 56, Program H-2.1.1; "…continue to permit housing rehabilitation". He asked that it read "…encourage housing rehabilitation."

He agreed with Councilmember Federighi that perhaps because the City is unlikely to have large, employment-generating uses, that the whole section should be dropped, as he was not sure the City would want to impose the commercial development linkage fee.

On Program H-2.4, "Encouraging construction of multi-family housing", he wanted to make it clear the City does have areas that are zoned for such density, as opposed to "in order to meet regional housing needs." In H-2.4.1, on the program on top of the next page, he asked to change it to "…in areas where such development now requires a land use permit."

On top of page 58, Policy H-2.8, "Consider the use of redevelopment agency to implement housing programs." The RDA is mandated to implement housing programs and he suggested; "Have the Redevelopment Agency implement housing programs" because they are required to do that. In the program, more information could focus on what the City does; a minimum of 15% is required and in some cases the City does more, we may have funding to implement funding. He suggested it possibly be a separate program on "How the City Uses its Funding."

On H-3.1.2, it talks about moderate income Lafayette residents, and he said certainly once they are here they are moderate income Lafayette residents, but they may not necessarily be before they get to the City.

On Program H-3.1.5; Inclusionary Ordinance, it states "This ordinance is in addition to the 15% inclusionary requirement already in place. He said he could read that to mean that it is now 15% plus the inclusionary ordinance, which he did not believe, is what is meant, and he said it is just a wording issue. In the table below it, the last row, he was not sure what the timing means and looks like it is a repeat of an earlier row. Ms. Elrod said she believed it was a repeat; "terms of affordability".

On the last Program V-63, 5.3.2, it talks about the 2000 census and he hoped we could talk about the 2010 census.

Ms. Srivatsa referred back to the policy about housing sharing for seniors and said staff deleted the program that followed the policy but as a policy, it was good to encourage the spectrum of house sharing programs.

The public hearing was opened.

Public Comments:

LYNN HIDEN said she wanted to see the Diamond K supply site taken off. There has been a lot of discussion about protecting local businesses, about decreasing our carbon footprint and she cited additional miles driven.

Mayor Tatzin noted that just because it is on the list, it did not necessarily mean that it would be developed.

The public hearing was closed.

Mayor Tatzin reviewed and confirmed comments for amendment:

- Page 54; Agreed to leave house sharing in as a policy but no program.
- H-1.4.1; policy with how to implement affordability requirements for condo conversions—send as is, except for adding in that the existing apartment complexes with affordable units, if condonimiumized, would have to retain the same level of affordability.
- Page 56; 2.1.1; Encourage Housing Rehabilitation versus continue to permit.
- Suggestion to drop the program but retain the Policy H-2.3.
- 2.4.1 as a minor wording change; "allow it as a right in the future where it now requires a permit".
- Ms. Srivatsa said the City has a program that states along the main street, housing would be on upper floors, and the Planning Commission has also recommended this. It is Program H-2.1.2 on page 56. Vice Mayor Andersson questioned if it would run into conflict with the state requirement, and Ms. Elrod said no; the inventory looked at specifically that item and considered mixed use all along Mt. Diablo Boulevard so the City would meet the requirement without having to rely on those as completely housing sites. Councilmember Anderson questioned if it should be required and not just considered to be required. Ms.

Elrod said the Council has not taken action on an item, and the purpose is for a housing element. She recommended using that language so it shows a full vetting of the idea.

- Councilmember Anderson said it has been strongly stated over and over that the City wants its retail fronting the downtown streets and not to have residential on the ground floor. He felt the language could be left it, but ultimately it is something we should indicate strongly. Councilmember Anduri suggested changing "consider requiring" to "requiring". Ms. Srivatsa said currently, the General Plan and zoning ordinance do not have this requirement. A housing project can be built on Mt. Diablo Boulevard. This is proposing changes to the zoning ordinance and the General Plan and guidance was taken from the Downtown Strategy to come up with this program. Because the idea has not been yet adopted, staff is recommending, "consider requiring." There has been a lot of conversation about it, but there is nothing in the code that states it. Councilmember Anderson felt it could remain as long as the Council knows it will have to return and deal with it, and Councilmembers agreed.
- Mayor Tatzin said in continuing, on Policy H-2.8 on page 58, the Council talked about having the Redevelopment Agency implement a housing program and to add another program to indicate how to direct the housing funds.
- In Program 3.1.2, change to "moderate income population" as opposed to "moderate income Lafayette residents."
- In Program 3.1.5, make it clear that the inclusionary ordinance is not cumulative and there was some minor changes to the table to remove redundancy.
- Mayor Tatzin noted that Councilmember Federighi had made the suggestion to drop the words, "because of proximity to transit" on 5.1.3.
- And, he said the Council was going to talk about the 2010 census.

ACTION: It was M/S/C (Federighi/Andersson) to direct staff to send the amended administrative draft to the State Department of Housing and Community Development for the mandated 60-day review. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

11. CONSENT CALENDAR

Mayor Tatzin noted there was a request to remove Item M.

ACTION: It was M/S/C (Andersson/Anduri) to convene jointly as the Redevelopment Agency. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

ACTION: It was M/S/C (Anduri/Andersson) to approve Consent Calendar items A, B, C, D, E, F, G, H, I, J, K L and N. Item 11A Vote: 4-0-1-0. (Ayes: Tatzin, Anduri, Federighi, Anderson; Noes: None; Abstained: Andersson Absent: None). Items B,C,D,E,F,G,H,I,J,K,L,N Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

A. City Council Minutes
February 23, 2009
Recommendation: Approve.

B. Resolution 2009-010 Designating a 4-Hour Parking Time Zone on Nordstrom Lane West of Glen Road

Recommendation: Adopt Resolution 2009-010.

C. MS 504-06, 3975 S. Peardale Drive – Partial Release of Security Deposit
Recommendation: Accept work done to date as complete and authorize the recordation of a notice of partial completion and the release of corresponding securities.

D. Adoption of CEQA Categorical Exemption finding for Mt. Diablo Boulevard Multi-Purpose Pathway Project
Recommendation: Adopt a CEQA Categorical Exemption finding under Section 15301(c) for the Mt. Diablo Boulevard Multi-Purpose Pathway Project and authorize staff to record a Notice of Completion.

E. CEQA Finding and Resolution 2009-15 Request to the Metropolitan Transportation Commission for the Allocation of FY 2009-2010 TDA Article 3 Funds for Stanley Boulevard Sidewalk at Warner Curve
Recommendation: Adopt Resolution 2009-19.

F. Rejecting all bids for the Lafayette Community Park Children's Play Area - Project #012-917100
Recommendation: Reject all bids that were submitted on February 18, 2009 for the Lafayette Community Park Children's Play Area Project #012-917100 and direct staff to re-advertise the project.

G. E-mail dated February 24, 2009 from Geri Murphy resigning from the Creeks Committee.
Recommendation: Accept with regret.

H. Appointing new member to the Environmental Task Force
Recommendation: Appoint Matt Branagh to the Environmental Task Force.

I. Planning Division Work Plan: Schedules for Completing the Long Range Tasks
Recommendation: Approve revised work plan and schedules.

J. Drought Status, Suspension of Water Well Study/Construction for Community Park
Recommendation: Suspend further consideration of water well construction at Community Park at this time.

K. Increase the 2008-09 Senior Services Commission Budget by $29,750 and Enter a Professional Services Agreement with BW Research Partnership, Inc. to Conduct a Senior Needs Assessment
Recommendation: Increase the 2008-09 Senior Services Commission budget by $29, 750 and enter into a professional services agreement with BW Research Partnership, Inc. to conduct a Senior Needs Assessment.

L. Downtown Bike Racks
Recommendation: 1. Authorize staff to sign 511ContraCosta.org's use agreement to purchase and install bike racks at the subject locations on public property. 2. Direct staff to work with the identified private property owners to seek their approval to purchase and install racks utilizing 511ContraCosta.org grant funds.

Convene Redevelopment Agency

N. Intention to Negotiate for Purchase of APN 241-010-031 and APN 233-031-026-5
Recommendation: Staff recommends Council declare, as a minute order, its intention to negotiate for the purchase of these properties and adjourn to a closed session for the purpose to give direction to the city manager regarding terms and conditions.

Items Removed for Discussion:

M. Downtown Strategy Update
Recommendation: Receive and file.

Councilmember Anduri thanked the Senior Needs Task Force for their work on Item K.

Public Comments:

GUY ATWOOD said the Lafayette Homeowners Council requests, based upon their experience with the Downtown Strategic Plan to date, that there needs to be additional time allowed for the various commissions and committees and the public to ensure a good product. He asked the Council to direct the Planning Commission and any other committees to take the time needed to do the best job they can do before the document comes before the Council, and this may mean an adjustment in schedule. He said the Planning Commission is planning to come up with a definition of the mission and vision for Lafayette that can be used to measure all of the things being proposed under the plan. In a relatively short period of time, 50 pages of comments have been received and he suggested getting a point to having a document where the public and Council can review and move forward on. Apparent also is that the things recommended under regulations and procedures do not seem to match the mission or vision of Lafayette, and many questions have been raised which have not been fully addressed.

Vice Mayor Andersson questioned the timing, and Mr. Atwood asked the Council to direct the committees and commissions to take whatever time necessary they feel is needed to do a good job.

Mayor Tatzin questioned the status of the Planning Commissions' review in the next step. Ms. Srivatsa said the Planning Commission held a review last Thursday. They focused on the vision statement of the plan and had two comments. One was that it wasn't entirely clear and they wanted to clarify certain terms like, "unique" and "small town character." The second was whether or not it related to the recommendations of the strategy. They felt that, in some instances, if they retain the vision statement, the recommendations in the plan would not be compatible to the statement. She said the Commission has appointed a subcommittee to work on a vision statement this week. They have two meetings before the April 13th Council meeting, so they have the opportunity to complete their review; however, she was not sure this would be done or not.

Councilmember Anduri questioned and confirmed that the Planning Commission is making suggestions to the vision statement that the advisory committee prepared and is not writing another alternate statement.

Councilmember Federighi said it was her impression that the tight timeframe was tied considerably to the Housing Element environmental review. Ms. Merideth said the City has two grants and staff is trying to meet those timelines. The Council adopted the goal to complete the plan by the end of the year, and this is what staff is working toward now. Staff needs to submit the

draft plan with any suggestions recommended by the Council to the Air Quality District and the environmental review process must start this summer.

Councilmember Federighi questioned why the environmental review process would need to be done by this summer, and Ms. Merideth said it needs to be started in order to finish the document as soon as possible. Ms. Merideth said staff has a certain timeline to finish the environmental review process by a certain date and is proceeding along. If they reach a point where additional time is needed, they will return to the Council. At this point, the process is moving forward and doable. She said she believes the Planning Commission is the last body to finish up the review.

Councilmember Federighi said her personal concern, having attended a recent meeting of the advisory committee which was a full Saturday from 9:30 to 5:00, is that the entire day spent dealing exclusively with the Circulation Element of the plan. She said the Council will be getting comments from not only the advisory committee, but all commissions and committees. She said daunting is how the Council will be able to digest all comments and then comment and advise WRT to make and agree on things the Council wants to change.

GEORGE BURTT, Lafayette Homeowners Council, said this was a group effort; comments in his letter were sincere and do not intend to deviate and he voiced concern with the process. They observed on Thursday night the need for more than tweaking of the language of the mission statement. This was given to a subcommittee of the group and they were given the go ahead to change it. They then said they would measure whatever they finally adopt against the plan itself, yet there were individual comments from Commissioners which seemed to indicate significant disagreement. He said they had anecdotal evidence being entered on what the advisory committee has modified. They are very concerned with what the Planning Commission will do; it is expensive entering into an EIR; the process is breaking down; there needs to be more time, and they think April 13 is too rushed.

SUSAN CALLISTER agreed with previous speakers, said there is some question as to whether or not the plan is even needed, but before that determination is made a decent plan is needed for the Council to make that determination. She said she has had 15-20 people contact her petitioning that they do not want Lafayette fundamentally and forever changed with huge downtown redevelopment. She felt the timeline needs to be delayed in order for the Council to get a revised draft report from WRT that takes into consideration the comments and concerns of all committees and the public. Once revised, the Council should look at it and determine whether or not to go onto the EIR period, which will take longer than a year. She felt the report was fundamentally flawed and if adopted as currently drafted, there will be a mix of fundamental changes to the town that many of the people do not want.

Councilmember Anderson said the advisory committee finished the document. There have been 22 meetings, each meeting was at least 5 hours for 15 people and there was a lot of time put into it. All comments have come in on the base document and there have been no changes to the document. Each group received it and has the same issues that the past or future group has. So he felt there will be many repetitive comments. He said Ms. Merideth is planning on putting all comments together and whittling them down into groups; those which are major issues and those which are minor. The plan is coming to the Council as a plan that has been reviewed by everybody and included are all major and minor issues and comments. He suggested having a revision of the plan before spending the time to look at it, but said the Council will have to make a decision about conflicting comments that have been made in the process.

Mr. Falk said staff has had a number of conversations about how to take this gigantic tomb of information and digest it into something that is useful. Staff also does not disagree with many public comments made. He talked to Ms. Merideth about scheduling a large Council meeting. Staff would create a matrix and for each of the major issues, the left column would indicate the consultant's position and recommendation, the next column would represent the citizen advisory committee's recommendation, the third column would articulate comments from commissions, the fourth column would be summary comments provided by the public and a fifth column would be staff's recommendation. Staff would present it at a workshop setting and have it rest with the Council. Once the Council makes the decisions, staff would ask WRT to re-draft the plan, and he personally did not think it made sense to do another draft of the plan now.

Councilmember Federighi thanked staff for the clarification and asked if there would be an additional Council meeting for the workshop. Ms. Merideth said it was set up as a joint meeting with City Council, Planning Commission, Circulation Commission, DRC, Parks and Recreation and the Environmental Task Force on April 13th with WRT from 5:00 to about 9:00 p.m.

Mayor Tatzin said some Councilmembers have travel constraints, and if the information was ready, April 13th worked for everyone. If postponed to April 27th it would not work for all Councilmembers. Councilmember Federighi agreed she was available on April 13th and hoped all members would be available for the second meeting in May.

Mayor Tatzin said he was reluctant to postpone the process, recognizing that if the Planning Commission could not finish their work, the Council would be able to address it at that time.

Councilmember Anduri said given the way processes work; he felt the pressure needed to be maintained. However, there are many comments accumulating and he questioned if the Planning Commission's role was to provide additional comments or were they synthesizing comments. Ms. Merideth said they were just another body providing comments.

Councilmember Anduri confirmed with Ms. Merideth that on April 13th all issues would be synthesized into primary, secondary and minor issues. Ms. Merideth believes there will be about 10-15 issues that will be the focus of what the Council will discuss on April 13th.

Councilmember Anduri said then they would come out on April 13th with guidance for WRT to redraft the plan and it would take a month or so for them to redraft the plan. Environmental review can start now because a consultant will do its own analysis and background work.

Councilmember Anduri said his other concern is that there are big picture issues. He knows the City wants a plan which is somewhat prescriptive. Ms. Merideth said an example is the Bank of the West corner, which is a secondary issue of a larger issue in terms of the creek way, and those will be laid out for the Council.

Councilmember Anduri questioned the cost of the EIR process, and Ms. Merideth said the City has $150,000 from ABAG, their match is $45,000, and she suspected it would cost more. But until an RFP is done and staff follows federal guidelines to bid out the project, the cost is unknown.

Councilmember Anderson said he felt it was a difficult process because some people disagree with the idea of changing anything, some want some change, some want affordable housing, and there are many difficulties to move forward. Councilmember Anduri said that he has difficulty visualizing how the April meeting will work, as there will be many other issues raised by the public, and the time the process will take. Mayor Tatzin said the plan has attracted far more community

comments than originally anticipated, which is great, and he felt there will be new speakers, new comments, and it may well be that the Council does not finish. But, his point is that unless the schedule is maintained, it will not be delayed and the Council should start on that date. Councilmember Anduri suggested setting ground rules.

Mayor Tatzin suggested staff work with the Council liaisons to set ground rules, return to the Council at the next March meeting to begin to answer how best to proceed and then the Council will have a better game plan.

Vice Mayor Andersson commented that there is an advantage of having spent 22 meetings in a deliberate process to get all committees and the public heard. He expected being able to distill the comments and move fairly quickly in decision-making.

Mayor Tatzin suggested Councilmembers Anderson and Federighi work with staff on setting ground rules and determining the process moving forward. He confirmed that the April 13th meeting would stand and that Council liaisons would return in two weeks with a recommendation.

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to adjourn the Redevelopment Agency meeting. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Councilmember Federighi said she is the delegate to ABAG. The General Assembly is April 23 and she will be out of town. She agreed to forward information to the City Clerk for an alternate delegate to be identified.

Mayor Tatzin said at the Mayors' Conference a discussion was held about the Alameda-Contra Costa Emergency Radio System. There has been a request to Senator Feinstein for $30 million to finish it. In the meantime, they are in the midst of purchasing and installing equipment, and the first system will be in place in West Contra Costa County early this year. There are also about 6 applicants for the Charter Communications Commission and interviews will need to be scheduled.

Mayor Tatzin referred to the police contract. He sent an email to the Mayors of Orinda and Danville indicating that the Council expressed a preference to have a steering committee.

B. Brandt Andersson, Vice Mayor
Discussion on the tradition of Mayoral Rotation
Recommendation: Discuss.

Vice Mayor Brandt Andersson said that he asked to have this item put this on the agenda. He stated that the Town of Moraga has a very clear condition of exactly who gets on as mayor and at what point, but Lafayette does not.

Vice Mayor Andersson indicated he spoke to Mayor Tatzin who said there is not a real set tradition but there is one argument to be made going along one line of reasoning that would have you come in as Vice Mayor and another that Carl Anduri come in as Vice Mayor. It was

suggested I talk to Carl, which I did and it turned out that we had two completely different ideas of how it actually did work. I actually went back at one point to try to piece together what had taken place in the past, but just got more confused, since there was no consistent pattern.

There are a number of ways to rotate the office, but we have the situation where we have 4 year terms and five councilmembers, leaving one member falling a year behind in rotation. Now it seems that this has been taken care of in the past by someone skipping a term or someone leaving the council unexpectedly, but it's not ever quite clear how the standard succession works.

Mayor Tatzin said maybe its worth while having a clearer rule of rotation, again not as a binding regulation, but just our tradition, so there is less confusion about it. also important is that historically what normally would happen is that people serve as mayor in order of votes received, and that went really well because even though there were 5 council members, you generally got to serve once every 4 years. The first time in my experience this broke down was in my 5th term where I didn't serve, also it broke down in Carl's term when he didn't get to serve and it is an inherit flaw in the 5 member 4 year combination so unless you serve, for example I was elected in 85 and immediately served as vice mayor. Carl was due to be Mayor this term but was that his rotation when he was elected in 2004 or when he was elected in 2008.

Vice Mayor Andersson said his general sense is as long as you don't have the council change over occasionally people will miss and there is no perfect answer, only that someone shouldn't have to skip a term until everyone has skipped a term.

Mayor Tatzin noted that there was an article about Concord a couple of months ago, as they had the same problem with their mayor rotation and they came to the conclusion that who ever has gone the longest without serving gets to serve next. When two people who have not served as mayor are tied, then it goes to the person with the highest votes when they were elected, which I think is a good system for 5 people with 4 year terms. I don't think it's an expectation that you serve every 4 years but I think it's reasonable that you serve once every 5 years. When someone new comes on they would just slot in. Vice Mayor Andersson noted that this seemed a reasonable approach.

ACTION: There was not formal action taken.

13. WRITTEN COMMUNICATIONS

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to re-convene the Redevelopment Agency Meeting. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

14. RECONVENE CLOSED SESSION

Conference with Real Property Negotiators (Government code section 54956.8)
Property: APN 241-010-031 (Risa Road) and APN 233-031-026-5 (Brown Avenue)
Agency Negotiator: Steven Falk, City Manager/Executive Director
Negotiating Parties: Steven Falk, Ann Merideth, Niroop Srivatsa

Under Negotiation: Price and Terms of Payment

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0-0. (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

15. ADJOURNMENT

The City Council adjourned at 10:10 p.m. to the next regular City Council Meeting on March 23, 2009

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk